

## **EX. 4**

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

JARI MCPHERSON, JERALD	)	
SAMS, AND DANIEL MARTINEZ,	)	
	)	
Plaintiffs,	)	
	)	CIVIL ACTION
VS.	)	
	)	NO.: 1:20-cv-01223-DAE
TEXAS DEPARTMENT OF PUBLIC	)	
SAFETY,	)	
	)	
Defendant.	)	

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REMOTE ORAL DEPOSITION OF

JERALD SAMS

JANUARY 20, 2023

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REMOTE ORAL DEPOSITION OF JERALD SAMS, produced as a witness at the instance of the PLAINTIFFS, and duly sworn, was taken in the above-styled and numbered cause on January 20, 2023, from 10:03 a.m. to 4:45 p.m., via Zoom, before Vanessa J. Theisen, CSR in and for the State of Texas, reported by machine shorthand, pursuant to the Federal Rules of Civil Procedure and any provisions stated on the record or attached hereto.

<p style="text-align: right;">46</p> <p>1 A. Okay. So, yeah. So as -- as best as I can  2 recall, maybe sometime in '20 -- David Davenport was  3 selected as sergeant, like, October of 2018. He  4 stayed approximately six to nine months. So that  5 would have put it around June or July when he left,  6 and Natee Wong was soon thereafter. So sometime in  7 2019. He didn't stay very long.  8 Q. So in 2019, when David Davenport left, the  9 chain of command decided to open the sergeant  10 position to lateral transfers of other sergeants,  11 correct?  12 A. Yes.  13 Q. And there was not a promotional opportunity  14 for people to be moved up to become sergeant,  15 correct?  16 A. Which I felt was -- which I felt was wrong  17 and discriminatory within itself.  18 Q. But that was -- the decision was that it was  19 intended to be open for lateral transfers, correct?  20 A. Correct.  21 Q. And Natee Wong was previously a sergeant  22 elsewhere, correct?  23 A. He -- yes, I believe he was. Yes.  24 Q. And so Natee Wong was transferred in as a  25 sergeant for the mounted unit, correct?</p>	<p style="text-align: right;">48</p> <p>1 Q. All right. Now you're not claiming that  2 Natee Wong discriminated against you, correct?  3 A. As I stated before, that list, I -- I -- it  4 wasn't the absolute -- I know that Natee Wong treated  5 me unfairly. I know that Natee Wong treated me  6 differently. He treated the African Americans on the  7 team differently. I mean, every African American on  8 the team he treated differently. So -- and unfairly.  9 If that qualifies as discrimination -- and to my  10 belief it was due to our race, so if that qualifies  11 as discrimination, yes, he did also.  12 Q. What did Natee Wong do to treat you  13 differently because of your race?  14 A. Well, there was -- there was a meeting that  15 had taken place. They called a DRO meeting -- I'm  16 sorry, they called it a progression meeting, which  17 was disguised as a dispute resolution meeting.  18 And during that meeting, it became --  19 and it seemed like it was well organized. And it  20 became a demoralize degrade Jerald Sams, Cynthia  21 Sparks, and the previous members on the team, Dexter  22 Freeman, all African Americans -- to degrade them and  23 basically tell us our work was in vain and didn't --  24 really didn't -- we didn't do anything right.  25 Another instance is where we had -- I</p>
<p style="text-align: right;">47</p> <p>1 A. Correct.  2 Q. And he was the sergeant for the mounted unit  3 until the time that you -- through the time that you  4 transferred out of the mounted unit?  5 A. No, sir. He left -- he left prior to me.  6 Remember, I was telling you that Nathan Fox had taken  7 over the administrative duties of the -- of the  8 mounted patrol, sometime in 2020, prior to me  9 leaving.  10 Q. So was there not another opportunity for a  11 promotion to sergeant in the mounted patrol in 2019  12 or 2020?  13 A. No, sir. They changed the whole -- they  14 changed the whole process, which -- which prevented  15 any of the experienced mounted patrol members from  16 even applying for that -- that job.  17 Q. The transfer was open only to existing  18 sergeants, correct?  19 A. Correct.  20 Q. All right.  21 A. Whether or not they had experience in  22 mounted patrol or -- or not. Natee Wong had  23 absolutely no experience in horses, driving truck and  24 trailer, mounted patrol, or anything related to  25 horses.</p>	<p style="text-align: right;">49</p> <p>1 was the -- Cynthia Sparks and I were the only  2 certified members to actually ride as a certified  3 mounted patrol officer, certified instructors, and  4 certified trainers. We had a white female that was  5 new to the team that was selected to train the horses  6 and start training the personnel without any  7 certifications, any trainings, or whatever.  8 She -- and Natee Wong, along with Tim  9 Blackmon and Anthony Rodriguez, basically told  10 Cynthia and I to step aside, this white female is  11 going to do the training of the horses and now do the  12 training of the personnel, without any type of  13 certifications.  14 Q. All right. Anything else? Any other  15 concrete acts of discrimination that you are  16 attributing to Natee Wong?  17 A. No, sir. Not at -- not that I can recall at  18 this time. I'm not saying that he didn't do anything  19 more. Just saying that I can't remember at this  20 time.  21 Q. All right. You also mentioned Tim Blackmon.  22 What did Tim Blackmon do that you are alleging was  23 discriminatory or retaliatory?  24 A. I can't prove that Tim Blackmon did  25 anything. I know that Tim Blackmon knew of the</p>



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1 discrimination and retaliation, and he did nothing  
2 about it.

3 Q. And what was Tim Blackmon's position?

4 A. He was my lieutenant.

5 Q. The other person that you mentioned was Joe  
6 Ortiz. What did Joe Ortiz do that you are alleging  
7 was discriminatory or retaliatory?

8 A. That basically accused or promoted the idea  
9 that the mounted patrol -- that I was attempting to  
10 make the mounted patrol an all-black unit and stated  
11 that I called or named the mounted patrol the Buffalo  
12 Soldier Unit, which was totally false and -- and just  
13 untrue.

14 Q. Had you previously used the term "Buffalo  
15 Soldier" with Joe Ortiz?

16 A. That day. I explained to him that his  
17 allegations -- just because it was his perception,  
18 that because we had -- I don't know if it was -- I  
19 can't remember if it was three or four African  
20 Americans on the team, you know, why was it such a  
21 big deal? When he said something about the Buffalo  
22 Soldiers, I repeated the fact that -- well, I told  
23 him that the Buffalo Soldiers and history always had  
24 a white member on the team, and that's when I  
25 mentioned the word "Buffalo Soldiers."

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1 Prior to that and prior to hearing it in  
2 an OIG investigation, I had not referred to our unit  
3 as the Buffalo Soldiers.

4 Q. So Joe Ortiz shared with you that he thought  
5 you were trying to make the mounted patrol into a  
6 Buffalo Soldiers squad. Is that correct?

7 A. His statement was it was perception, and  
8 that he -- he heard that that was my goal, was to  
9 make the unit a Buffalo Soldier unit. And my  
10 response to him was that "Your perception of just  
11 because we have a majority of African Americans on  
12 the team, no one says that about the dive team that's  
13 all white. No one says that about the marine unit  
14 that doesn't have any African Americans on it. No  
15 one says that about the Texas Rangers that has  
16 limited amount of African Americans inside of the  
17 unit."

18 And at that time, you know, he -- you  
19 know, he went, "Whoa, whoa, whoa, whoa, whoa,  
20 Jerald," you know, "that's enough." And so, you  
21 know, that's where that conversation ended, you know,  
22 on that. But...

23 Q. But you are claiming in this lawsuit that  
24 Joe Ortiz was discriminating against you based on  
25 your race because of that comment?

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1 A. When he -- when he perceived that I was  
2 trying to make the unit an all-black unit, yes.

3 Q. And was that an act of discrimination or of  
4 retaliation or both?

5 MR. MUNGO: I'm going to object. That  
6 calls for a legal analysis and interpretation. He's  
7 not a lawyer.

8 THE WITNESS: Can I ask you --

9 MR. HARRIS: Well, let me -- I'll  
10 rephrase the question.

11 Q. (BY MR. HARRIS) Are you alleging that Joe  
12 Ortiz made those statements in retaliation against  
13 you?

14 A. I just know those -- I just know those  
15 comments was based on my race and the race of the  
16 people that was on the mounted patrol team at the  
17 time and they were African American.

18 Q. All right. So this is an example of the  
19 race discrimination that you are complaining about?

20 A. It's a portion of it.

21 Q. All right. We've talked about Tim Blackmon,  
22 Joe Ortiz, and Natee Wong and Nathan Fox. How about  
23 Jeremiah Richards? What are you alleging that he did  
24 that was contrary to law?

25 A. I can tell you that -- excuse me. Can I --

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1 can I have about two minutes?

2 MR. MUNGO: Can we take a break,  
3 counsel?

4 MR. HARRIS: Well, we have a question  
5 pending. So just for purposes -- can I rephrase a  
6 quick question and then we can take a break?

7 MR. MUNGO: Sure.

8 MR. HARRIS: All right.

9 THE WITNESS: Just give me -- give me a  
10 -- just give me a second.

11 MR. MUNGO: Give him a couple of  
12 minutes. And -- and before we take a break and  
13 he'll -- and then he can answer.

14 A. I think Jeremiah Richards probably performed  
15 the most disrespectful -- one of the most degrading  
16 acts that a supervisor can ever display and perform  
17 with a support -- subordinate. I felt like a  
18 prisoner. I felt like, for lack of a better term, at  
19 that time I felt like he treated me like a dang old  
20 slave.

21 Q. (BY MR. HARRIS) Okay. Can you tell me what  
22 incident you are --

23 A. I'm about -- I'm about to tell you, and I  
24 apologize for cutting you off. It's just super  
25 emotional for me.



<p style="text-align: right;">70</p> <p>1 that's not in evidence.</p> <p>2 A. I can't -- I can't recall. It -- unless it</p> <p>3 was under the -- under the advice of my attorney.</p> <p>4 Q. (BY MR. HARRIS) All right. Well, we're</p> <p>5 still looking at this document that's part of</p> <p>6 Exhibit 2. You testified that that was your</p> <p>7 signature, correct?</p> <p>8 A. Yes.</p> <p>9 Q. And this is a charge of discrimination that</p> <p>10 was dated January 4th, 2020, correct?</p> <p>11 A. Yes.</p> <p>12 Q. All right. So why did you file this second</p> <p>13 charge?</p> <p>14 MR. MUNGO: Objection, assuming a fact</p> <p>15 that's not in evidence.</p> <p>16 Q. (BY MR. HARRIS) Are you refusing to answer</p> <p>17 the question, Mr. Sams?</p> <p>18 A. No, sir. I'm just trying to be allotted</p> <p>19 enough time to actually read the form. I'm sorry</p> <p>20 that I didn't advise you of -- that I was reading the</p> <p>21 form.</p> <p>22 Do I have -- do I have time to read</p> <p>23 that, or do I need to --</p> <p>24 Q. Well, why don't we go ahead and take a</p> <p>25 break, then, if you need time to read this form. We</p>	<p style="text-align: right;">72</p> <p>1 Q. (BY MR. HARRIS) All right. Well, the -- is</p> <p>2 there anything materially different between the two</p> <p>3 that you added?</p> <p>4 MR. MUNGO: And if you need to review</p> <p>5 those documents more carefully to answer that</p> <p>6 question, Mr. Sams, ask counsel if you can do so.</p> <p>7 A. Yeah, I'll have to see -- look at it again</p> <p>8 to re --</p> <p>9 MR. HARRIS: All right. We just took a</p> <p>10 ten-minute break for you to review the documents.</p> <p>11 You need to take another break to review them? Do</p> <p>12 you?</p> <p>13 A. If you -- if you want to stand by. I mean,</p> <p>14 I don't -- I don't know how it works. This is my</p> <p>15 first deposition. So I can -- I can read them now or</p> <p>16 if you want to take a break, I mean, I can. You</p> <p>17 know, maybe five minutes for me to look at them.</p> <p>18 It was a different question that you</p> <p>19 asked -- imposed so I was looking at the forms a</p> <p>20 little bit differently.</p> <p>21 Q. (BY MR. HARRIS) The first question I had</p> <p>22 asked was simply why did you file another charge of</p> <p>23 discrimination? And then the question I'm asking now</p> <p>24 is, what -- is there anything materially different</p> <p>25 that you are -- that you are -- that's different that</p>
<p style="text-align: right;">71</p> <p>1 can go off the record.</p> <p>2 THE REPORTER: Are you good with going</p> <p>3 off the record, Mr. Mungo?</p> <p>4 MR. MUNGO: Yeah, we can go off the</p> <p>5 record.</p> <p>6 THE REPORTER: Okay. Off the record at</p> <p>7 1:22 p.m.</p> <p>8 (Recess 1:22 p.m. to 1:35 p.m.)</p> <p>9 THE REPORTER: Back on the record at</p> <p>10 1:35.</p> <p>11 Q. (BY MR. HARRIS) All right. Mr. Sams,</p> <p>12 before the break I had asked you what the</p> <p>13 circumstances were for you filing another charge of</p> <p>14 discrimination. Your attorney objected, and I have</p> <p>15 not received an answer yet.</p> <p>16 A. Okay. So simply because I was trying to</p> <p>17 recall because it's been so long ago, I can't -- I</p> <p>18 just -- I can't recall why there's two instances</p> <p>19 there.</p> <p>20 Q. But you do recall filing a second charge of</p> <p>21 discrimination?</p> <p>22 MR. MUNGO: Objection, asked and</p> <p>23 answered. He just said he didn't -- can't recall.</p> <p>24 A. Like I said, that at this time I cannot</p> <p>25 recall why there's two instances there.</p>	<p style="text-align: right;">73</p> <p>1 you are alleging in the second charge of</p> <p>2 discrimination?</p> <p>3 MR. MUNGO: Objection, assuming a fact</p> <p>4 that's not in evidence. He has not said he recalled</p> <p>5 filing the second charge.</p> <p>6 MR. HARRIS: All right.</p> <p>7 Q. (BY MR. HARRIS) Let me ask it this way</p> <p>8 then: Did you amend your charge of discrimination?</p> <p>9 A. Like I said, sir, I mean, I can't recall</p> <p>10 what the circumstances were, why there's two</p> <p>11 instances. I can't recall at this time.</p> <p>12 Q. All right. Then the answer -- what is your</p> <p>13 answer to my prior question, which is what is</p> <p>14 materially different about the second charge of</p> <p>15 discrimination?</p> <p>16 A. Okay. I'll just have to --</p> <p>17 MR. MUNGO: Objection, assuming -- whoa.</p> <p>18 Objection, assuming a fact that's not in evidence.</p> <p>19 A. I'll just have to review the documents to</p> <p>20 see if there's something different.</p> <p>21 Q. (BY MR. HARRIS) All right then. We took a</p> <p>22 break before. How long do you need to review the</p> <p>23 document this time?</p> <p>24 A. Five minutes.</p> <p>25 MR. HARRIS: All right. I guess we will</p>



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1 take another five minute break.

2 THE REPORTER: Okay. Off the record at  
3 1:39.

4 (Discussion off the record.)

5 (Recess 1:39 p.m. to 1:50 p.m.)

6 Q. (BY MR. HARRIS) All right. Mr. Sams, did  
7 you consult with your attorneys during the break?

8 A. Yes.

9 Q. So while there was a question pending and  
10 you were reviewing a document, you called and spoke  
11 with your attorneys?

12 A. I did not call them.

13 Q. Did they call you?

14 A. Yes.

15 MR. MUNGO: So, Drew, what you have is a  
16 scenario where the documents actually -- they speak  
17 for themselves. And our client is not a lawyer, so I  
18 think he's going to be able to give you a more full  
19 and accurate response in accordance with those --  
20 with the facts of those documents.

21 MR. HARRIS: I'm here to depose  
22 Mr. Sams, not to depose his lawyers.

23 MR. MUNGO: Well, we understand that,  
24 but you do want -- I mean, he's told you several  
25 times he didn't recall, and you keep pressing him.

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1 to apply for the position, versus taking that  
2 opportunity away from the most experienced personnel  
3 for that job.

4 Q. And are you claiming that that was done on  
5 the basis of race?

6 A. That's the way I feel, to prohibit me from  
7 applying for that position, the -- for that position.

8 Q. And are you maintaining that that was done  
9 to retaliate against you?

10 A. I am.

11 Q. Why would Anthony Rodriguez want to  
12 retaliate against you?

13 A. Because his boss -- in my belief -- his boss  
14 is Ron Joy, and he is very influential.

15 Q. Is there anything else you are alleging  
16 Anthony Rodriguez did to discriminate or retaliate  
17 against you?

18 A. I cannot recall at this time. I'm not  
19 saying that he didn't do anything else. I just can't  
20 recall at this time.

21 Q. And Ron Joy, what are you alleging he did to  
22 discriminate against you?

23 A. Ron Joy demoted me after two investigations  
24 that yielded nonsustained complaints and demoted me  
25 for issues out of my control.

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1 So we helped to refresh his recollection about some  
2 matters that pertain to the documents that clearly  
3 the documents themselves speak to in and of  
4 themselves.

5 So his recollection is now refreshed,  
6 and he can give you a more complete and accurate  
7 answer in conjunction with and consistent with the  
8 documents that clearly speak for themselves.

9 MR. HARRIS: All right.

10 Q. (BY MR. HARRIS) Going back to my question  
11 before the break, before you spoke with your  
12 attorneys, why is there a second charge of  
13 discrimination?

14 A. I do not believe there is a second charge.

15 It's one charge number that I saw on the top of the  
16 page. You asked me was there any differences? I saw  
17 where there was -- where Anthony Rodriguez was added  
18 to reflect that there was a transfer portion added to  
19 that document, and -- but to remember how all that  
20 transpired, how the process works, I cannot recall.

21 Q. So what are you alleging that Anthony  
22 Rodriguez did to discriminate or retaliate against  
23 you?

24 A. To change the process from a board interview  
25 process, that would allow everyone in the department

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1 Q. What were the issues that he demoted you  
2 for?

3 A. He demoted me for leadership decisions that  
4 he maintained that I made that I was not in control  
5 of; i.e., the schedule in scheduling personnel to be  
6 in various places and work assignments and -- and so  
7 those -- those areas I had no control over.

8 It was a sergeant, which was a white  
9 sergeant at the time, he received no disciplinary --  
10 no disciplinary actions for his decisions in making  
11 those leadership decisions.

12 Q. And in fact, Ron Joy also criticized your  
13 work on the standard operating procedures for the  
14 mounted unit, correct?

15 A. No, sir, he didn't, not from my -- the  
16 only -- the only other item that he listed was there  
17 should be documentation of training records.

18 And that was -- it was those -- it was  
19 three things. It was the schedule, it was scheduling  
20 work assignments, and a documented form of training  
21 records. Those were the only things that, when I  
22 spoke with him, was the -- well, he outlined for my  
23 deficiencies. But none of -- neither my sergeant, my  
24 lieutenant, my captain, none of those people were  
25 accredited with any of the leadership deficiencies.



<p style="text-align: right;">78</p> <p>1 Me, being the only African American male</p> <p>2 in that chain, I was the only one that was</p> <p>3 disciplined.</p> <p>4 Q. But Ron Joy also had criticisms regarding</p> <p>5 your handling of standard operating procedures,</p> <p>6 didn't he?</p> <p>7 A. In regards to what?</p> <p>8 Q. He criticized the fact that you seemed to</p> <p>9 copy and paste some other agency's standard operating</p> <p>10 procedures for the mounted unit even though there</p> <p>11 were portions that were clearly not applicable to</p> <p>12 DPS, correct?</p> <p>13 MR. MUNGO: Objection, assuming a fact</p> <p>14 not in evidence.</p> <p>15 A. I have no idea where that came from.</p> <p>16 Q. (BY MR. HARRIS) You did work on the</p> <p>17 standard operating procedures for the mounted unit,</p> <p>18 correct?</p> <p>19 A. Of course, yes.</p> <p>20 Q. And did you use portions regarded -- that</p> <p>21 related from the border patrol?</p> <p>22 A. Yes.</p> <p>23 Q. And you copied some portions of the border</p> <p>24 patrol's standard operating procedures, verbatim,</p> <p>25 correct?</p>	<p style="text-align: right;">80</p> <p>1 I would have understood why I was demoted. I was</p> <p>2 never given anything in writing or actually counseled</p> <p>3 or anything preceding those -- that talk with Chief</p> <p>4 Joy other than the disposition of the investigation,</p> <p>5 which was a reduction in rank and -- which was a</p> <p>6 reduction in rank and be put on a performance</p> <p>7 improvement plan, sent to classes, and which none of</p> <p>8 that actually happened.</p> <p>9 Q. And are you claiming that Ron Joy did</p> <p>10 that -- did the demotion to discriminate against you</p> <p>11 or to retaliate against you?</p> <p>12 A. Discriminate, retaliate. I mean, those</p> <p>13 terms -- I just know that -- with talk I know that I</p> <p>14 was treated differently. There was a white corporal,</p> <p>15 I believe, up in the Dallas area, that had two</p> <p>16 sustained complaints, and he wasn't demoted. But I</p> <p>17 had two nonsustained complaints and was demoted</p> <p>18 for -- I'm still yet to understand why.</p> <p>19 Q. Now, the position of corporal is different</p> <p>20 from, say, the position of sergeant or lieutenant in</p> <p>21 that it's not always selected through an interview</p> <p>22 board, correct?</p> <p>23 A. I'm not familiar with that process other</p> <p>24 than a selection process.</p> <p>25 Q. And you served as a corporal at the</p>
<p style="text-align: right;">79</p> <p>1 A. As it related to bits and colic and medical</p> <p>2 procedures, yes. And that's pretty standard. When</p> <p>3 you go to a train the trainer course, you would adopt</p> <p>4 those practices.</p> <p>5 Q. And is it your testimony that you have never</p> <p>6 heard any criticisms regarding your handling of this</p> <p>7 standard operating procedures?</p> <p>8 A. Not until -- not until these proceedings</p> <p>9 began. It was never -- it was never told to me by</p> <p>10 DPS personnel, because I have asked for years, since</p> <p>11 my demotion, for something in writing to explain why</p> <p>12 I was demoted, for what particular reason, and I have</p> <p>13 not -- I have yet to get that.</p> <p>14 Q. But you were told that your communication</p> <p>15 with some of the members of the mounted unit was a</p> <p>16 factor, correct?</p> <p>17 A. My communication?</p> <p>18 Q. Yes.</p> <p>19 A. Like I said, when I spoke to Chief Joy, he</p> <p>20 had three concerns. It was when -- it was about the</p> <p>21 schedule, it was about assigning personnel duties,</p> <p>22 and it was about annotating the training schedule for</p> <p>23 the animals.</p> <p>24 If I had any idea of the</p> <p>25 communication or -- I mean, if it was laid out to me,</p>	<p style="text-align: right;">81</p> <p>1 discretion of Chief Ron Joy, correct?</p> <p>2 A. I'm assuming that every rank and file in the</p> <p>3 THP service, you know, serves at the chief's will, I</p> <p>4 guess. Everybody -- excuse me -- everybody is</p> <p>5 appointed -- the chief has the final say-so of every</p> <p>6 progression in the highway patrol service.</p> <p>7 Q. So if the chief did not believe that you had</p> <p>8 the leadership skills for the corporal position, it</p> <p>9 was within his rights to make the decision to demote</p> <p>10 you, correct?</p> <p>11 A. To the best of my knowledge, yes, he can do</p> <p>12 that with any position, not just the corporal</p> <p>13 position.</p> <p>14 Q. All right. Is there anything else that</p> <p>15 you're alleging Chief Ron Joy did to discriminate or</p> <p>16 retaliate against you?</p> <p>17 A. Yes, I believe that the final decision to</p> <p>18 promote me lies upon him, and I allege that he failed</p> <p>19 to promote me to sergeant over the mounted patrol.</p> <p>20 Q. Now, you were not recommended, though, for</p> <p>21 promotion by the oral interview board for the</p> <p>22 sergeant position, correct?</p> <p>23 A. Yes, that is correct.</p> <p>24 Q. So are you maintaining that he should have</p> <p>25 promoted you to sergeant even though the oral</p>



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1 interview board did not recommend you for the  
2 position?  
3 A. Well, it's his job and his responsibility to  
4 make sure the oral board is handled properly. And  
5 it's my charge that the oral board was not handled  
6 properly by Jeremiah Richards. And so it's his, Ron  
7 Joy's, job to ensure that there is no discrimination,  
8 no disparate treatment that goes on in that oral  
9 interview board. And he did not do that and nor did  
10 he correct the actions of that oral interview board  
11 for the mounted patrol.

12 Q. All right. After the demotion decision had  
13 been made and apart from you not getting the  
14 promotion to sergeant later on, what other acts of  
15 discrimination are you claiming in this lawsuit?

16 MR. MUNGO: Objection. First, assuming  
17 facts that is not in evidence and then  
18 mischaracterizing his testimony.

19 Your limitations on what he has  
20 testified to are not consistent with what's been put  
21 in the record, counsel.

22 MR. HARRIS: I need an answer from the  
23 witness.

24 Q. (BY MR. HARRIS) What other acts of  
25 discrimination or retaliation are you claiming in

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1 before you left the mounted patrol in April 2020,  
2 correct?

3 A. Yes.

4 Q. Who screamed or yelled at you for  
5 mistreating the horses?

6 A. The current sergeant over the mounted patrol  
7 now, Jessica Springer.

8 Q. And what was she concerned about regarding  
9 the horses?

10 A. She stated that I abused the horses, wasn't  
11 training them the proper way. And it was Sergeant  
12 Wong, in his retaliation, concurred, which none of  
13 them have actually -- neither one of them had spent  
14 any considerable amount of time with me during my  
15 training or operations in the mounted patrol service.

16 Q. When were you stripped as duties as the  
17 mounted patrol structure instructions or?

18 A. When the white female came aboard.

19 Q. When was that?

20 A. I believe sometime in 2020. I can't  
21 remember the exact date. Upon my -- my best  
22 recollection is sometime in 2020.

23 Q. And it is your claim that all these actions  
24 were because you were black?

25 A. Yes.

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1 this lawsuit?

2 A. I cannot recall at this time. I'm not  
3 saying that there wasn't any other acts. I'm just  
4 saying that I can't recall at this time.

5 Q. Are you making a claim for racial harassment  
6 in this case?

7 A. It is my belief that I've been continually  
8 harassed.

9 Q. All right. Can you -- let's start with  
10 after -- after the decision was made on October 2nd,  
11 2018, not to select you for sergeant, okay?

12 A. Uh-huh.

13 Q. After that, what acts of discrimination or  
14 harass -- of harassment are you claiming in this  
15 lawsuit?

16 A. Fraudulent investigations such as not  
17 shaking a white man's hand the traditional way.  
18 Being led into a meeting described as a progression  
19 meeting and being bombarded with demoralizing talk,  
20 being screamed at, yelled at, being accused of  
21 abusing the horses, having my duties as a mounted  
22 patrol instructor stripped and taken away from me.  
23 And there's -- I'm sure there's much more; I just  
24 can't remember them all at this moment.

25 Q. And all of these events would have happened

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1 Q. You and Jessica Springer had disagreements  
2 over how to handle the horses, correct?

3 A. I wouldn't say it was disagreement as much  
4 as there was training -- training differences as she  
5 has no experience in mounted patrol operation, and I  
6 have extensive experience in mounted patrol  
7 operations.

8 She's a show person; I'm a practical  
9 mounted patrol person.

10 Q. So based on her experiences, she thought  
11 that your treatment of the horses was not proper,  
12 correct?

13 A. I can't speak for her.

14 Q. Did she voice to you that she thought your  
15 treatment of the horses was improper?

16 A. Yes.

17 Q. Did you have any reason to believe that she  
18 did not think that you were doing it improperly?

19 A. Say that again, please.

20 Q. Do you have any reason to believe that she  
21 was not believing that you were improperly treating  
22 the horses?

23 A. I'm trying to -- I'm trying to understand  
24 that question.

25 Q. I'll rephrase it.



<p>158</p> <p>1 A. It's -- it looks like it's a document from 2 Barry Grant, Economic Specialist. 3 Q. Okay. Does he serve as an expert in your 4 case? 5 A. Yes. 6 Q. Okay. To calculate your economic damages? 7 A. Yes. 8 Q. Your dollar losses as a result of the 9 discrimination perpetrated against you by the 10 defendants in this case? 11 A. Yes. 12 Q. Okay. Can you determine -- and are you 13 going to rely on your expert for calculating what 14 your actual economic losses are? 15 A. Yes. 16 Q. Okay. Can you determine from the figures 17 given on this chart what your economic losses are? 18 And I'm going to turn this where you can see it. 19 Hold on a second. Uh-oh. Uh-oh. Not now. Nope. 20 Get rid of you. Okay. All right. I just want to -- 21 oh, come on here now. 22 A. I believe I can see it. If you would scroll 23 down just -- I'm sorry, up. If you'd scroll up -- 24 Q. All right. Hold on. 25 A. -- I should be able to make it out.</p>	<p>160</p> <p>1 question. 2 A. -- there's no -- so there is no specific law 3 that says you have to be licensed or a licensed 4 trainer to train horses to instruct in the Texas 5 Department of Public Safety and/or award individuals 6 that are members of police agencies, you have to be a 7 certified instructor through the Texas Commission on 8 Law Enforcement. And you have to have -- or you have 9 to be specifically credentialed in that area. 10 And my credentialing came from Sun Coast 11 Equine, which is a basic certification for mounted 12 patrol, to become a mounted patrol instructor, and 13 then I have an advanced mounted patrol instructor 14 certification through the Border Patrol, United 15 States Border Patrol. 16 Q. (BY MR. MUNGO) Okay. 17 A. And also approximately 25, if not more, 18 years of experience in my field. 19 Q. Okay. And Nieronow, the white female 20 trooper who was a member of the mounted unit, alleged 21 that you did you not have proper credentialing to 22 handle and care for horses, correct? 23 A. Correct. 24 Q. Okay. And that complaint and those 25 allegations against you that you did not, that she</p>
<p>159</p> <p>1 Q. Hold on a second. Do you -- can you 2 determine what Barry Grant's calculation of your 3 economic damages are as of the date of this report? 4 A. Yes. A little over \$2.1 million. 5 Q. Okay. Thank you. 6 MR. MUNGO: All right. Give me just a 7 couple of minutes, please. Just a couple of minutes. 8 And we'll be right back. I'm going to stop the 9 share. And give me just one moment. 10 THE REPORTER: Off the record at 11 4:38 p.m. 12 (Brief pause.) 13 THE REPORTER: Back on the record at 14 4:40 p.m. 15 MR. MUNGO: Thank you. Thank you. 16 Apologize. 17 Q. (BY MR. MUNGO) So, sir, I want to ask you, 18 do you have -- well, what kind of credentials and/or 19 licensing are required in the State of Texas for you 20 to do what you do in -- in your special area of 21 handling, training, caring for, and anything else 22 that's -- which you would be legally obligated to 23 have a license for handling and dealing with horses? 24 A. So -- 25 MR. HARRIS: Object to the form of the</p>	<p>161</p> <p>1 made, were not sustained, correct? 2 A. Correct. 3 Q. Okay. And do you know whether or not she 4 was disciplined for making false allegations against 5 you? 6 A. I do not know, sir. 7 Q. Okay. So do you feel that the Texas 8 Department of Public Safety entertains and harbors a 9 racially hostile environment? 10 A. Yes. 11 Q. Okay. And do you believe that you have been 12 discriminated against based upon your race in -- 13 during the course of your employment with the Texas 14 Department of Public Safety? 15 A. Yes. 16 Q. And specifically during the period of time 17 in which you were a part of the mounted unit and -- 18 and the period thereafter? 19 A. Yes. 20 Q. Okay. And are you aware of other African 21 American troopers, either in management and not in 22 management, who complained and have -- and have 23 shared with you anecdotal scenarios in which they 24 have been discriminated against based on their race? 25 A. Yes.</p>

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1 Q. Okay. Is it true that the Texas Department  
2 of Public Safety harbors an environment that  
3 promotes, rewards, and tolerates retaliatory conduct  
4 against its troopers for making complaints of  
5 discrimination against it?  
6 A. Yes.  
7 Q. Okay. Have you experienced that personally  
8 yourself?  
9 A. Yes.  
10 Q. How has this affected you emotionally, sir?  
11 A. Very deeply. As we stated before, I have  
12 been diagnosed with posttraumatic syndrome due to the  
13 trauma that has been imposed upon me by the  
14 department.  
15 Q. Okay. And that trauma is race based?  
16 A. Yes.  
17 Q. Okay. All right. Let's see.  
18 MR. MUNGO: Okay. I have no further  
19 questions, counsel.  
20 MR. HARRIS: All right. No further  
21 questions.  
22 THE REPORTER: Off the record at  
23 4:45 p.m.  
24 (Deposition concluded at 4:45 p.m.)  
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1 \_\_\_\_ was requested by the deponent or a  
2 party before the completion of the deposition and  
3 that the signature is to be before any notary public  
4 and returned within 30 days from date of receipt of  
5 the transcript.  
6 If returned, the attached Changes and  
7 Signature Page contains any changes and the reasons  
8 therefore:  
9 \_XX\_ was not requested by the deponent or  
10 a party before the completion of the deposition.  
11 I further certify that I am neither  
12 counsel for, related to, nor employed by any of the  
13 parties or attorneys in the action in which this  
14 proceeding was taken, and further that I am not  
15 financially or otherwise interested in the outcome of  
16 the action.  
17 Certified to by me on this, the 8th day  
18 of February, 2023.  
19  
20  
21 VANESSA J. THEISEN, Texas CSR, RPR  
22 Texas Cert No. 3238  
23 Expiration Date: 10/31/23  
24 Integrity Legal Support Solutions  
25 Firm Registration No. 528  
9901 Brodie Ln., Ste. 160-400  
Austin, Texas 78748  
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1 IN THE UNITED STATES DISTRICT COURT  
2 FOR THE WESTERN DISTRICT OF TEXAS  
3 AUSTIN DIVISION  
4 JARI MCPHERSON, JERALD )  
SAMS, AND DANIEL MARTINEZ, )  
5 )  
Plaintiffs, )  
6 ) CIVIL ACTION  
VS. )  
7 ) NO.: 1:20-cv-01223-DAE  
TEXAS DEPARTMENT OF PUBLIC )  
8 SAFETY, )  
9 )  
Defendant. )  
10 REPORTER'S CERTIFICATION OF THE REMOTE ORAL  
DEPOSITION OF JERALD SAMS  
11 JANUARY 20, 2023  
12 I, Vanessa J. Theisen, a Certified  
13 Shorthand Reporter in and for the State of Texas,  
14 hereby certify to the following:  
15 That the witness, JERALD SAMS, was duly  
16 sworn by the officer and that the transcript of the  
17 oral deposition is a true record of the testimony  
18 given by the witness;  
19 That the original deposition was delivered  
20 to Mr. Leonard Mungo to obtain witness's signature.  
21 That a copy of this certificate was served  
22 on all parties and/or the witness shown herein on  
23 February 8, 2023.  
24 I further certify that pursuant to FRCP  
25 Rule 30(3) that the signature of the deponent: